THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16927 OF 2007

ORAL ORDER:

In pursuance of the tenders invited by the respondents, the petitioner herein was awarded the works for reconditioning the worn out CMS/heat treated/built-up crossings, tongue rails and etc. Pursuant thereto, an agreement dated 16.5.2007 was entered into between the parties and the work was commenced. However, by the impugned order dated 8.6.2007, the agreement was rescinded with immediate effect in terms of Clause 62 of General Conditions of Contract on the ground that the work executed by the petitioner was not in accordance with the Manual Provision and the agreement conditions. Thereafter, the petitioner made a request on 17.7.2007 to refer the dispute for Arbitration as provided under the agreement. While further proceedings are pending, this writ petition is filed seeking a declaration that the action of the 3rd respondent in terminating the agreement vide proceedings dated 8.6.2007 without notice is arbitrary and illegal and, consequently, to direct the respondents to allow the petitioner to complete the work awarded under the agreement.

I have heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents.

On the face of it, the dispute arises out of a non-statutory contract, where the rights and liabilities of the parties are governed by the terms and conditions of the agreement itself. Hence, the allegations arising out of such contract cannot be dealt with under Article 226 of the Constitution of India. That apart, admittedly, the agreement contains a clause for Arbitration and the petitioner has already invoked the same. Hence, on that ground also, the petitioner is not entitled to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

The writ petition is accordingly, dismissed. No costs.

Kgr 9.8.2007.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16927 OF 2007

9th August, 2007.

Between:

M/s Metal Bonds, a Proprietary concern,
represented by its Proprietor –
Sri Rohit Khanna, (being represented by
Anuj Manaktala). .. Petitioner.

And

The General Manager,
South Central Railway,
DRM Office,
Secunderabad, A.P., and others. .. Respondents.